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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,486	12/21/2001	Chet Butikofer	10013387-1	4637

7590            01/11/2005

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[REDACTED] EXAMINER

MCCLELLAN, JAMES S

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

3627

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/029,486	BUTIKOFER, CHET	
	<b>Examiner</b>	<b>Art Unit</b>	
	James S McClellan	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 November 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 3-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### *Amendment*

1. Applicant's submittal of an amendment was entered on 11/1/04, wherein:

claims 1 and 3-22 are pending;  
claim 2 has been canceled; and  
claims 1, 3, 6, 9, 10, 13, and 18 have been amended.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7 and 9-22 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent No. 6,415,264 (hereinafter “Walker”).

Regarding **claim 1**, Walker discloses a method for facilitating the sale of a network-enabled device over a network comprising the steps of: receiving indication of an intent to sell the device (see column 3, lines 45-55) and automatically transmitting a request (via a communication network 100) to a network-based sales service to post a sale notice that offers the network-enabled device for sale on a network (see column 3, lines 55-61); **[claim 2]** the step of receiving indication of an intent to sell comprises receiving the indication with the network-

enabled device (see column 3, lines 33-36); [claim 3] transmitting information concerning at least one of the network-enabled device and a seller of the device (see column 3, lines 55-61); [claim 4] the information includes at least an identification of network-enabled device, a sale price (floor price), and contact information of the seller (see column 3, lines 55-61); [claim 5] information includes use-specific information as to the manner the network-enabled device has been used (see column 6, lines 25-27); [claim 6] transmitting an address that identifies a location of information pertinent to the network-enabled device (it is inherent that the posting site device 200 and the seller device 110 transmit address information such that the devices can communicate); [claim 7] information includes a description of the device and its features (see column 7, lines 52-63); and [claim 9] prompting the user to select a sales service to post the sale notice (it is inherent a input prompt will be generated for the user to input information).

Regarding **claims 10-12**, Walker discloses a system for facilitating sale of network-enabled device as set forth above for method claims 1-7 and 9.

Regarding **claims 13-17**, Walker discloses a device sales manager stored on a computer-readable medium, the medium being executable by a network-enabled device as set forth above for method claims 1-7 and 9.

Regarding **claims 18-22**, Walker discloses a network-enabled device as set forth above for method claims 1-7 and 9.

It is noted that Walker discloses using a network-enabled device (110) to transmit a posting request (see column 3, lines 33-36) for second-hand consumer electronic devices (see column 3, lines 49-51). Clearly, the consumer electronic device is capable of being the same network-enabled device used for requesting the post.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of U.S. Patent No. 6,085,176 (hereinafter “Woolston”).

Walker fails to explicitly disclose transmitting an image of the device for posting.

Woolston teaches the use of transmitting an image of the device for posting (see Figure 13, 920)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker with the device image as taught by Woolston, because posting an image of the device provides potential additional decision making information, wherein reducing the likelihood of an unsatisfied customer.

***Response to Arguments***

6. Applicant’s arguments filed November 1, 2004 have been fully considered but they are not persuasive.

On page 9, second full paragraph, Applicant’s main argument regarding all pending claims is that Walker does not teach a method in which a network-enabled device facilitates its own sale. More specifically, Applicant alleges that Walker discloses in column 3, lines 55-61 a “seller device 110” that sends a communication to a network about a *different item* to be sold

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(emphasis by Applicant). The Examiner respectfully disagrees. Nowhere does Walker set forth that the seller device 110 send a communication to a network about different item (emphasis added by the Examiner). It is the Examiner's position that the a user could use a network enabled electronic device (for example a personal computer) to facilitate the sale of said electronic device. For example, assume Bob owns one personal computer connected to a network via an ISP. Bob decides to sale his only personal computer using the same computer. This example would apply to any network enabled device that is traditionally used to facilitate the sale of products (PDA's, mobile phones, PC's, etc.) Again, Walker does not set forth that the seller device 110 send a communication to a network about different item.

All remaining arguments on pages 9-13 rely on the argument set forth above.

### *Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

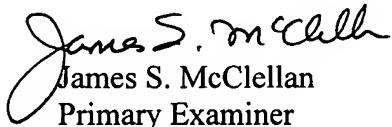
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks  
Washington D.C. 20231

or faxed to:

(703) 872/9306 (Official communications) or  
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,  
Arlington, VA, 7<sup>th</sup> floor receptionist.

  
James S. McClellan  
Primary Examiner  
A.U. 3627

jsm  
January 6, 2005